

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

United States of America,

v.

Rene Valladares,

Movant.

Cr. No. 6:03-cr-00703-GRA

C/A No. 6:05-1408-GRA

ORDER

[Written Opinion]

This matter is before the Court on Petitioner's 28 U.S.C. § 2255 motion. Both 28 U.S.C. § 2255 and Rule 4 of the Rules Governing Motion Attacking Sentence (28 U.S.C. § 2255) affect the disposition of Petitioner's motion. Title 28 U.S.C. § 2255 provides in pertinent part as follows:

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States Attorney, grant a prompt hearing thereon, determine the findings of fact and conclusions of law with respect thereto.

28 U.S.C. § 2255.

Rule 4, of the Rules Governing Motion Attacking Sentence (28 U.S.C. § 2255), states in pertinent part as follows:

The motion, together with all the files, records, transcripts, and correspondence relating to the judgment under attack, shall be examined promptly by the judge to whom it [the § 2255 motion] is assigned. If it plainly appears from the face of the motion and any annexed exhibits and the prior proceedings in the case that the Petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the Petitioner to be notified. Otherwise, the judge shall order the United States Attorney to file an answer or other pleading within the period of time fixed by the court or to take such other action as the judge deems appropriate.

Rule 4, Rules Governing Motion Attacking Sentence (28 U.S.C. § 2255).

The limited record before the Court does not conclusively show why the prisoner is not entitled to relief. Under Rule 4 of the Rules Governing Section 2255 Proceedings, this Court orders the United States Attorney to file an answer and show cause for denial of the Petitioner's motion. The United States Attorney will have thirty (30) days from the filing date of this order to respond.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "G. Ross Anderson, Jr." in a cursive script.

G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

May 26, 2005.